



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

August 25, 2021

BY ECF / EMAIL

Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Mark S. Scott, S10 17 Cr. 630 (ER)*

Dear Judge Ramos:

The Government submits this letter in response to Scott's request for an adjournment of the sentencing proceeding currently set for two weeks from today, on September 8, 2021, at 4:00 PM. In his letter Scott seeks an adjournment of the sentencing for an indefinite period. Scott offers two reasons for his adjournment request. First, he argues that an adjournment is needed in light of his supplemental Rule 33 motion, filed on August 23, 2021. And second, he urges the Court to adjourn sentencing in light of certain medical issues. Although the Government would consent to a final adjournment for a period of four weeks, Scott's request for an indefinite adjournment of sentencing is unwarranted and should be denied.¹

As background, the defendant was convicted following a three-week trial in November 2019. Sentencing was originally scheduled to take place on February 21, 2020. Since that time, sentencing has been adjourned on numerous occasions, based on requests made by both the Government and the defendant. Indeed, the instant application represents the *tenth* request for an adjournment of the defendant's sentencing since February 2020. Anticipating such a situation, at the time of the last such request, made by the defendant by letter dated May 21, 2021, the Government advised that it would consent to that adjournment but that it would "oppose any additional request for adjournment." (See Dkt. No. 378).

The Government expects to file its forfeiture reply brief today. The defendant's post-trial motions have been fully briefed since May 2020. All that remains is for the parties to file their sentencing submissions and proceed with sentencing.

¹ Notably, the sentencing was originally scheduled at 10:00 a.m. on September 15, 2021, and was advanced at the defendant's request to September 8, 2021. (See Dkt. No. 389).

The defendant's last-minute supplemental motion for a new trial, which he filed on August 23, 2021, is not a basis to adjourn his sentence indefinitely. The Government is in the process of investigating the allegations raised in the supplemental motion and will respond to the claims raised by the motion. Nonetheless, even the claims in the supplemental motion do not establish a basis for a new trial pursuant to Rule 33 under prevailing legal precedent.

As to Scott's second basis for an adjournment, with respect to the defendant's medical conditions and related procedures, they also do not represent a basis for a further adjournment of sentencing. To the extent that the defendant, who is fully vaccinated against COVID-19, cannot be treated for his medical conditions within the Bureau of Prisons ("BOP"), the appropriate remedy is not to adjourn sentencing for a tenth time, but rather, upon receipt of adequate documentation of his condition(s), the exact timing of any necessary medical procedure(s), and a clear showing that the BOP cannot adequately conduct the treatment, to adjourn the defendant's' surrender date to the BOP for an appropriate period of time to accommodate any such procedure(s).

For the reasons set forth above, the Government opposes any further adjournment of Scott's sentencing date beyond a period of four weeks.

Respectfully submitted,

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Cc: Defense counsel (ECF)